United Nations CRC/C/DEU/CO/3-4

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the combined third and fourth periodic reports of Germany*

1. The Committee considered the combined third and fourth periodic reports of Germany (CRC/C/DEU/3-4) at its 1866th and 1867th meetings (see CRC/C/SR.1866 and 1867), held on 27 January 2014, and adopted, at its 1875th meeting, held on 31 January 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic reports of Germany (CRC/C/DEU/3-4) and the written replies to its list of issues (CRC/C/DEU/Q/3-4/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level, multisectoral delegation of the State party.

II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the adoption of the following legislative measures:

(a) Act of 4 July 2013 strengthening the rights of biological, non-legal fathers;

(b) Act of 16 April 2013 to reform the parental custody rights of parents who are not married to each other;

(c) Act of 29 June 2011 amending the guardianship and custodial care law;

(d) Federal Child Protection Act of 22 December 2011;

(e) Child Promotion Act of 16 December 2008;

(f) Act of 12 July 2008 to facilitate family court measures in case of danger to the best interests of the child;

(g) Federal Parental Benefit and Parental Leave Act of 1 January 2007;

* Adopted by the Committee at its sixty-fifth session (13–31 January 2014).

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(h) Child and Youth Welfare Further Development Act of 1 October 2005.

4. The Committee also notes with appreciation the ratification of:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in February 2013;

(b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in July 2009;

(c) International Convention for the Protection of All Persons from Enforced Disappearances, in September 2009;

(d) Convention on the Rights of Persons with Disabilities, in February 2009;

(e) Council of Europe Convention on Action against Trafficking in Human Beings, in December 2012.

5. The Committee also welcomes the following institutional and policy measures:

(a) The establishment of the Federal Initiative for Early Intervention, in 2012;

(b) The development of the Strategy of the Federal Government to promote children's health, in 2008;

(c) The 2005–2010 National Action Plan entitled "Für ein kindergerechtes Deutschland" (For a Child-Friendly Germany).

6. The Committee welcomes the State party's withdrawal of its reservation to article 40, paragraph 2 (b) (ii) and (v), of the Convention.

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44 (6), of the Convention)

The Committee's previous recommendations

7. The Committee, while welcoming the State party's efforts to implement its concluding observations of 2004 on the State party's second report (CRC/C/15/Add.226), notes with regret that some of the recommendations contained therein have not been fully addressed.

8. **The Committee recommends that the State party take all the necessary measures to address those recommendations contained in the concluding observations on the second periodic report under the Convention that have not been sufficiently implemented, particularly those relating to coordination, independent monitoring, children seeking asylum and children in situations of migration.**

Legal status of the Convention

9. The Committee notes with satisfaction that most Länder have explicitly recognized children's rights in their constitutions. However, the Committee remains concerned that children's rights have not yet been explicitly recognized in the constitutions of Hamburg and Hesse, or in the Federal Constitution (Basic Law). The Committee further notes that under article 59, paragraph 2, of the Basic Law, the Convention is placed at the level of an ordinary federal law.

10. **In the light of its previous recommendations (CRC/C/15/Add.226, para. 10), the Committee urges the State party to take all the necessary measures to ensure that the Convention takes precedence over federal laws through its incorporation into the Basic Law or by any other procedure.**

Comprehensive policy and strategy

11. The Committee notes that the 2005–2010 National Action Plan initiated a broad discussion on children's rights. However, it regrets that the practical implementation of the Plan did not sufficiently involve civil society organizations and other actors at the local level. While noting that a new youth policy focusing on adolescents and young adults was launched in 2011, the Committee remains concerned that it does not seem to cover all issues related to children's rights.

12. **The Committee recommends that the State party take measures to formulate a comprehensive policy on children's rights, provide the relevant bodies with the necessary human, technical and financial resources to guide the development of programmes and projects, and establish systems for their monitoring and evaluation with clear indications of the roles and responsibilities of the relevant bodies at the federal and Länder levels.**

Coordination

13. The Committee remains concerned at the absence of a central body to coordinate the implementation of the Convention in the State party at the federal, Länder and community levels, making it difficult to achieve a comprehensive and coherent children's rights policy.

14. **In the light of its general comment No. 5 (2003) on general measures of implementation of the Convention, the Committee reiterates its previous recommendation (CRC/C/15/Add.226, para. 12) and calls upon the State party to establish or designate an adequate and permanent national body with full capacity and authority, as well as sufficient human, technical and financial resources to coordinate the implementation of the Convention effectively. This should include addressing cross-cutting issues between the various ministries at the federal level, between the federal and the Länder levels and among the Länder.**

Data collection

15. The Committee notes that the State party is aware of the importance of establishing a comprehensive data collection system. However, the Committee is concerned that the State party does not have a comprehensive system for collecting data on all areas covered by the Convention. This is one of the major obstacles for the effective planning, monitoring and evaluation of policies, programmes and projects for children, especially in the fields of violence against children, children with disabilities, juvenile justice and child refugees, particularly unaccompanied child refugees.

16. **Recalling its general comment No. 5 (2003) on general measures of implementation of the Convention, the Committee urges the State party to establish a comprehensive and integrated system to collect data on children covering all Länder and the entire period of childhood up to the age of 18, and to introduce indicators on children's rights which could be used to analyse and assess progress in the realization of those rights. The data should be disaggregated by age, sex, disability, geographical location, ethnicity, migration status and socioeconomic background in order to facilitate the assessment of the overall situation of children and provide guidance for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.**

Independent monitoring

17. The Committee remains concerned at the continued absence of a central, independent body to monitor the implementation of the Convention at the federal, Länder and community levels, and which is empowered to receive and address complaints of violations of children's rights.

18. **In line with its previous recommendations (CRC/C/15/Add.226, para. 16), the Committee recommends that the State party provide the German Institute for Human Rights with a mandate to monitor the implementation of the Convention at the federal, Länder and local levels. The Committee further recommends that the Institute be allocated adequate human, technical and financial resources and that its mandate include the possibility of receiving, investigating and effectively addressing complaints of violations of children's rights in a child-sensitive manner.**

Dissemination, awareness-raising and training

19. While welcoming the State party's efforts to disseminate the Convention in child-friendly ways, the Committee is concerned about the unsatisfactory access to information about children's rights for adults and children, particularly children in vulnerable situations. The Committee reiterates its previous concern that the State party is not undertaking adequate dissemination, awareness-raising and training activities concerning the Convention in a systematic and targeted manner, particularly in schools and for professionals working with children.

20. **In line with its previous recommendations (CRC/C/15/Add.43, para. 26, and CRC/C/15/Add.226, para. 20), the Committee recommends that the State party:**

(a) Include mandatory modules on the Convention and human rights in general in the school curriculum and develop sufficient initiatives to provide that information to vulnerable groups such as asylum seekers, refugees and ethnic minorities;

(b) Develop systematic and ongoing training programmes on the Convention for all professional groups working with and for children, such as judges, lawyers, law enforcement officials, civil servants, teachers, health personnel, including psychologists, and social workers;

(c) Encourage greater media engagement in raising awareness of the Convention in a child-friendly manner, in particular through greater use of social media, but also the press, radio, television and other media, as well as the active involvement of children themselves in public outreach activities.

International cooperation

21. **The Committee welcomes the State party's commitment, in the framework of the European Union official development assistance objectives, to reaching the internationally agreed target of 0.7 per cent of gross national income by 2015. The Committee encourages the State party to meet that target and to ensure that the realization of children's rights becomes a top priority in the international cooperation agreements established with developing countries. The Committee recommends that, in doing so, the State party take into account the Committee's concluding observations on the reports of the recipient countries in question. Furthermore, the Committee recommends that the State party call upon the European Union to ensure that the implementation of austerity measures in the concerned countries does not have a negative impact on the allocation of resources for child policies.**

Children's rights and the business sector

22. The Committee notes that the State party uses a significant amount of coal to produce power and is concerned about the negative impact that coal emissions have on children's health. The Committee is also concerned about the lack of adequate measures taken by the State party against German companies that conduct business abroad and reportedly violate children's rights and other human rights.

23. **In line with its general comment No. 16 on State obligations regarding the impact of the business sector on children' s rights (2013), the Committee recommends that the State party:**

(a) Establish a clear regulatory framework for the industries operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental and other standards, especially those relating to children's rights;

(b) Take into consideration the best interests of the child when adopting budgetary measures such as the allocation of subsidies for businesses that affect children's rights;

(c) Examine and adapt its civil, criminal and administrative legislative framework to ensure that business enterprises and their subsidiaries operating in or managed from the State party's territory are legally accountable for any violations of children's rights and human rights;

(d) Comply with international and domestic standards on business and human rights with a view to protecting local communities, particularly children, from any adverse effects resulting from business operations, in line with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, adopted by the Human Rights Council in 2011.

B. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

24. The Committee welcomes the anti-discrimination measures adopted by the State party, particularly those aimed at promoting a culture of understanding and tolerance. However, the Committee remains concerned that children with disabilities and children with a migration background continue to face discrimination in the State party, particularly regarding education and health-care services.

25. **The Committee recommends that the State party increase measures to combat discrimination, in particular discrimination against children with disabilities and children with a migration background, through programmes and policies to reduce inequalities in access to education, health and development. The Committee also recommends that the State party continue its efforts to raise awareness of discrimination and foster an inclusive and tolerant environment in schools and other spaces for children.**

Best interests of the child

26. While noting that the welfare of the child is a guiding principle in the State party's legal order and one that is increasingly being applied, the Committee also notes with concern that the principle of the best interests of the child has not yet been fully incorporated into federal legislation and the prioritization of the child's best interests has not yet been integrated into all areas of the legislative, executive and judicial branches of

government. In particular, it is frequently disregarded in cases concerning children from educationally and socioeconomically disadvantaged families, including refugee and asylum-seeking children.

27. **The Committee draws the State party's attention to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration. In line with its previous concluding observations (CRC/C/15/Add.226, para. 27), it recommends that the State party strengthen its efforts to ensure that that right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings, and in all policies, programmes and projects that are relevant to and have an impact on children. In that regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority on determining the best interests of the child in every area and on giving them due weight as a primary consideration. Such procedures and criteria should be disseminated to private social welfare institutions, courts of law, administrative authorities, legislative bodies and the public at large.**

C. Civil rights and freedoms (arts. 7, 8, and 13–17 of the Convention)

Birth registration

28. The Committee welcomes the developments in the State party in terms of birth registration of all national and foreign children, including children of refugees and asylum seekers. However, the Committee is concerned about the remaining practical difficulties in obtaining birth certificates for newborn babies with irregular residence status, given that the registry officials responsible for issuing the certificates are required to check residence status and communicate their findings to the immigration authorities.

29. **The Committee urges the State party to take the appropriate measures to ensure that birth registration is available as soon as possible for all children, regardless of their parents' legal status and/or origin. The Committee recommends that, in doing so, the State party exempt registry officials from the obligation to communicate information to the immigration authorities, as it did for the staff of educational facilities in 2011.**

Right to identity

30. The Committee notes the decision not to establish new baby boxes and the planned regulation of anonymous births, as well as the provision of support to pregnant women and women who have recently given birth, aimed at reducing the number of newborn babies who are abandoned. Nevertheless, the Committee regrets the absence of regulation and the ongoing use of baby-boxes, which is in violation of, inter alia, articles 6 to 9 and 19 of the Convention.

31. **The Committee strongly urges the State party to take all the measures necessary to end the practice of anonymous abandonment of children and to strengthen and promote alternatives as soon as possible. The Committee also urges the State party to increase its efforts to study and address the root causes of the abandonment of infants. The response should include the provision of family planning and reproductive health services, adequate counselling and social support in cases of unplanned pregnancy, the prevention of high-risk pregnancies, support for families in need, and the introduction, as a last resort, of the possibility of anonymous hospital births. In that respect, taking into account the duty to fully comply with all provisions of the Convention, the State party should keep a confidential record of the parents, to which the child could have access at a later stage.**

D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39 of the Convention)

Corporal punishment

32. The Committee notes with appreciation that children have a statutory right to a violence-free upbringing. Nevertheless, the Committee remains concerned that a significant number of children experience various forms of violence in their homes.

33. **The Committee recommends that the State party take all the necessary steps to ensure that the right to a violence-free upbringing is more effectively implemented. Furthermore, the Committee recommends that the State party develop and strengthen existing awareness-raising programmes aimed at promoting positive, non-violent and participatory forms of child-rearing and discipline to replace corporal punishment.**

Sexual exploitation and abuse

34. The Committee is concerned about the insufficient measures to prevent sexual exploitation and abuse and to provide help and support to victims of sexual offences, including:

(a) Insufficient prevention measures in schools and other institutions attended by children;

(b) Insufficient counselling services in some parts of the State and insufficient treatment units for child victims of sexual violence, with gaps particularly in the eastern Länder and in rural regions;

(c) Insufficient funding of specialized services;

(d) Unequal access to support and counselling services, particularly for boys, children with disabilities and migrant children with no or poor knowledge of German;

(e) The non-permanent status of the Independent Commissioner for Child Sex Abuse Issues.

35. **The Committee urges the State party to strengthen coordination between all actors in the protection system and to allocate all the necessary human, technical and financial resources to ensure:**

(a) The prevention of sexual violence against children, especially in schools and facilities for children with disabilities, and in youth welfare facilities and other institutions, such as in the clerical, sports and cultural sectors;

(b) Unrestricted access to adequate counselling services and treatment units for children who are victims of sexual exploitation and abuse;

(c) The allocation of resources to specialized services;

(d) Barrier-free access to counselling services and treatment units through the provision of foreign language and sign language interpretation;

(e) Permanent status for the Independent Commissioner for Child Sex Abuse Issues.

36. While noting the measures undertaken by the State party to investigate cases of child abuse committed by church officials, the Committee is concerned that several cases have not been investigated.

37. **The Committee recommends that the State party take all the necessary measures to expedite the investigation and prosecution of cases of child abuse allegedly committed by church officials.**

Harmful practices

38. The Committee is concerned about the significant number of girls living in the State party who are affected by genital mutilation or at risk of either being temporarily sent to a country where genital mutilation is practised or being exposed to it within the State party. The Committee also notes with concern that doctors, midwives and hospital personnel are often not well informed about genital mutilation and preventive and protective measures, and are therefore unable to give advice and provide help.

39. **The Committee reiterates its previous recommendations (CRC/C/15/Add.226, para. 47) and urges the State party to draft a national policy and strategy against female genital mutilation and to:**

(a) Provide training on the prevention of and response to female genital mutilation for all relevant professional groups, in particular doctors, midwives, hospital personnel, teachers, social workers and child helpline counsellors;

(b) Strengthen and organize further information dissemination and awareness-raising campaigns to prevent the practice, inter alia by involving civil society and the media. In that regard, particular focus should be placed on campaigns targeting girls at risk, informing them about access to help and advice;

(c) Further strengthen measures for the elimination of female genital mutilation in its international cooperation programmes by, inter alia, extending financial and technical assistance to countries where female genital mutilation is practised.

Freedom of the child from all forms of violence

40. The Committee is concerned about ongoing violence experienced by children in schools and other institutions, including physical violence, bullying and an increase in cyberbullying. Furthermore, the Committee is concerned at the lack of adequately qualified teachers and school social workers in some schools to address the issue, as well as qualified staff in other institutions.

41. **Recalling the recommendations of the 2006 United Nations Study on Violence against Children (see A/61/299) and the Committee's general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:**

(a) Develop a comprehensive national strategy to prevent and address all forms of violence against children;

(b) Adopt a national coordinating framework to address all forms of violence against children;

(c) Provide nationwide awareness-raising and training programmes for teachers and social workers aimed at their learning to recognize and effectively respond to incidents of violence;

(d) Cooperate with the Special Representative of the Secretary-General on Violence against Children and other relevant United Nations institutions.

E. Family environment and alternative care (arts. 5, 9–11, 18 (1 and 2), 20–21, 25 and 27 (4) of the Convention)

42. While welcoming the significant changes made by the State party with regard to the regulation of parental relations, in particular a major trend towards establishing joint parental custody of their children, the Committee notes that the State party is still using the term "custody" in its legislation, and not "parental responsibility" as used in the Convention and in some of the international instruments adopted after the entry into force of the Convention on the Rights of the Child.

43. **The Committee recommends that the State party consider the possibility of replacing the term "custody" with the term "parental responsibility", in line with the object and purpose of the Convention.**

Children deprived of a family environment

44. The Committee is concerned about the State party's strict rules regarding family reunification, which stipulate that left-behind children who are not citizens of a European Union country are allowed to join their parents in the State party only if they are below 16 years of age and if their means of subsistence are guaranteed.

45. **In the light of its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party ensure a general statutory right for children of foreign nationals to family reunification up to the age of 18.**

46. While welcoming the legislative measures adopted by the State party to provide support to parents in the fulfilment of their parental obligations, the Committee is concerned about the following issues:

(a) The increasing number of children deprived of their family environment and taken into public care;

(b) The lack of adequate resources in public youth welfare services to support families at risk and the low number of local authorities that provide support services in the parents' language, or interpretation;

(c) The practice of placing children with behavioural difficulties into foster care in other countries of the European Union, without proper supervision and evaluation.

47. **The Committee recommends that the State party:**

(a) Improve its system of family support and ensure that placement of children in foster care is used in the best interests of the child only;

(b) Provide welfare services with adequate human and financial resources in order to make them available to all families faced with social and economic difficulties, including migrant families, particularly difficulties in overcoming language barriers;

(c) Revise its policy of placing children in other European Union countries and provide adequate supervision, follow-up and evaluation.

48. While welcoming the efforts of the State party to expand early childhood education and care, the Committee remains concerned at the low number of early childhood education and care services available in some Länder, especially for children under the age of three, and the disparities in qualitative standards for early childhood education and care facilities between Länder. The Committee is also concerned about the difficulties that families in vulnerable situations, in particular migrant families, have in accessing such services.

49. **The Committee recommends that the State party adopt a comprehensive national policy for early childhood education and care, in compliance with the Europe 2020 growth strategy, and ensure that all children have access to high-quality early childhood education and care, without discrimination.**

F. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1–3) and 33 of the Convention)

Children with disabilities

50. The Committee welcomes the initiatives undertaken by the State party to analyse and improve the situation of children with disabilities. The Committee is, however, concerned about the non-inclusive nature of education, particularly at the secondary school level. In that context, the Committee also notes with concern that:

(a) There is insufficient cooperation between the federal and Länder levels in the educational sector, and no adapted curricula or systematic training of all teachers and school personnel on an inclusive approach to education;

(b) The need for individual support and reasonable accommodation in the area of education is not recognized and regulations concerning sign language vary across the Länder;

(c) In certain Länder, children at the primary level are assigned to special schools against their parents' will, the vast majority of pupils with disabilities attend special schools, and a high number of children with disabilities leave school without a diploma.

51. **In the light of article 23 of the Convention and the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and specifically recommends that the State party:**

(a) Pursue the establishment of State-wide inclusive education and ensure that the necessary resources are available, including through the use of the resources available in the special schools;

(b) Undertake all the necessary legislative and structural reforms to ensure that the right to inclusive education is guaranteed to children with disabilities, and that it encompasses the right to individual support and reasonable accommodation in the area of education;

(c) Ensure that children with disabilities and their families have a say when the decision is made about whether the child should attend a special school.

52. The Committee is concerned about the findings of a recent study undertaken by the State party, according to which girls with disabilities are frequently at risk of violence, including sexual violence.

53. **The Committee recommends that the State party take every necessary measure to prevent all forms of violence against children with disabilities, paying particular attention to the safety of girls with disabilities. In that regard, the Committee recommends that the State party provide particular protection and complaints mechanisms for children with disabilities who have become victims of violence.**

54. The Committee notes with concern that children with disabilities from migrant families often do not receive the same support as their peers without a migration background, owing to a lack of information and/or their parents' difficulties in accessing

the necessary forms and applications, and/or ignorance or lack of awareness about the disability.

55. **The Committee recommends that the State party take all the necessary steps to ensure that families with children with disabilities who have a migration background are provided with sufficient information and assistance regarding access to support.**

Health and health services

56. The Committee is concerned about the following issues:

(a) New morbidities in children which are being insufficiently addressed, related to attachment disorders, which could be linked to the decline in exclusive breastfeeding, and to an increase in children's emotional and behavioural problems, owing to pressure to succeed at school;

(b) Inadequate access for asylum-seeking children and those in irregular migration situations to health services, including treatment of acute illnesses, preventive health care and psychosocial therapy.

57. **The Committee recommends that the State party undertake advocacy and awareness-raising programmes targeting schools and families, emphasizing the importance of physical exercise, and healthy eating habits and lifestyles. It should also take all the necessary steps to address the existing disparities in health outcomes. Special attention should be paid to children and young people in vulnerable situations, especially those from socially disadvantaged or migration backgrounds. Furthermore, the Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and recommends that the State party take all the necessary legislative and structural measures to control the marketing of breast-milk substitutes and encourage mothers in the State party to breastfeed, which should promote better bonding between infants and mothers.**

Mental health

58. The Committee is concerned about the increase in the prescription of psycho-stimulants to children and about excessive diagnoses of Attention Deficit Hyperactivity Disorder (ADHD) or Attention Deficit Disorder (ADD), and in particular:

(a) The over prescription of the psycho-stimulant methylphenidate;

(b) The forced removal of children who are diagnosed/misdiagnosed with ADHD or ADD from their families and their subsequent placement in foster care or psychiatric hospitals, where many of them are treated with psychotropic medication.

59. **The Committee recommends that the State party:**

(a) Ensure that the placement of children in foster care or psychiatric hospitals is used as a last resort only, following a proper diagnosis;

(b) Provide families with access to psychological counselling and emotional support;

(c) Establish a system of independent expert monitoring of the diagnosis of ADHD and ADD and of the use of drug treatments for children;

(d) Ensure that relevant health authorities determine the root causes of inattention in the classroom and improve the diagnosis of mental health problems among children;

(e) Put a stop to the practice of labeling children as "having a psychiatric problem" in cases that are not validated by medical evidence.

Adolescent health

60. While welcoming the decline in smoking among adolescents, the Committee remains concerned about the significant rise in alcohol consumption.

61. **Referring to its general comment No. 4 (2003) on adolescent health and development, the Committee recommends that the State party ensure that children are provided with accurate information about the negative consequences of drug, alcohol and substance abuse. The State party should ensure that information on its harmful effects is better integrated into the school curriculum, thus teaching life skills to prevent such abuse, and encourage more media coverage to prevent substance abuse. The Committee further recommends that the State party ensure that children have sufficient access to confidential counselling and treatment for addiction.**

Breastfeeding

62. The Committee notes a decline in the breastfeeding rate in the State party, but welcomes the initiatives to promote breastfeeding, such as the adoption of the 2006 European Commission Directive on infant formulae and follow-up formulae. However, it is concerned that the efforts made to improve rates of exclusive breastfeeding for the first six months of a child's life may not be sufficient.

63. **The Committee recommends that the State party strengthen its efforts to promote exclusive and continued breastfeeding by providing access to materials, and educating the public and raising awareness concerning the importance of breastfeeding and the risks of formula feeding. The Committee urges the State party to strictly enforce the International Code of Marketing of Breast-milk Substitutes.**

Standard of living

64. The Committee is concerned about the rise in the poverty rate and the at-risk-of-poverty rate among children, with children from single-parent families, large families and families from ethnic minority backgrounds being particularly affected, above all when the adults are unemployed or in a precarious job situation. Furthermore, the Committee is concerned that the statutorily prescribed practice of imposing sanctions following non-compliance with duties connected to unemployment assistance may affect children's standard of living when imposed on families or unemployed adolescents.

65. **The Committee recommends that the State party allocate the necessary resources and make additional efforts to tackle the root causes of child poverty and conduct a comprehensive evaluation of the areas in which families are particularly vulnerable to poverty, and develop and implement appropriate remedial strategies. The Committee further recommends that the State party increase material assistance and support to economically disadvantaged families in order to ensure that all children have an adequate standard of living.**

G. Education, leisure and cultural activities (arts. 28, 29, 30 and 31 of the Convention)

Education, including vocational training and guidance

66. The Committee notes that responsibility for the field of education lies almost exclusively with the Länder. However, it is concerned that the various systems have not

been harmonized, producing differences among the Länder in important areas. The Committee also notes that in most Länder, the school system is divided into lower, intermediate and academic track schools and it is concerned that the choice has to be made at a very early age and it may be difficult to change tracks later. The Committee also regrets that children from ethnic-minority backgrounds have a significantly weaker record of school achievement; twice the number of children from ethnic-minority backgrounds leave school without qualifications, compared to pupils from non-ethnic minority backgrounds.

67. **Taking into account its general comment No. 1 (2001) on the aims of education, and the recommendations made by the Special Rapporteur on the right to education in the report on his visit to Germany in 2006 (A/HRC/4/29/Add.3), the Committee recommends that the State party:**

(a) Adopt the necessary measures to harmonize the school programmes to a greater extent between all the Länder in order to facilitate students' mobility between Länder;

(b) Undertake a revision of the current education system, whereby students are separated into various tracks at a very early stage, and make it more inclusive;

(c) Allocate sufficient human, technical and financial resources to provide additional support to children from an ethnic-minority background within school facilities.

H. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d), 38, 39 and 40 of the Convention)

Asylum-seeking and refugee children

68. The Committee welcomes the withdrawal of the declaration made by the State party on article 22 of the Convention and notes the hosting by the State party of thousands of asylum-seeking children and refugee children from many countries. The Committee however remains concerned that:

(a) The Asylum Procedure Act provides that children aged 16 years have the legal capacity to begin the asylum process on their own. Consequently, in practice children aged 16 years and above often do not benefit from the full protection of the youth welfare services and are placed in centres designed to house adult asylum seekers;

(b) The age assessment procedure in the State party may involve degrading and humiliating practices and does not produce accurate results, and a significant number of asylum-seeking and refugee children are identified as adults;

(c) The deficiencies in the identification of child soldiers or children who have escaped forced recruitment, as well as the rejection of asylum applications in such cases, prevent adequate assessment of their protection needs and prevent their receiving the appropriate attention;

(d) Custody pending deportation imposed on children can last up to 18 months, which is a direct contravention of the right of the child to have his or her best interests taken as a primary consideration.

69. **The Committee recommends that the State party:**

(a) Ensure equal and child-friendly treatment for every child under 18 years of age;

(b) Ensure that the age assessment procedure applied to asylum-seeking and refugee children is based on scientifically approved methods and is in full respect of children's dignity, as recommended in general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin;

(c) Improve the identification of child soldiers and children in danger of being recruited and ensure that they are granted refugee status, in order to better assess their protection needs and ensure they receive adequate psychological and social support;

(d) Ensure that detention of asylum-seeking and migrant children is always used as a measure of last resort and for the shortest appropriate time, in compliance with article 37 (b) of the Convention, and that detention is made subject to time limits and judicial review.

Children in situations of migration

70. The Committee is concerned that different service facilities in the State party are under a federal statutory obligation to inform the immigration authorities about all persons who come to their notice who do not have a residence permit, including children. In practice, that discourages children with an irregular residence status from approaching service offices for fear of discovery of their irregular status, which could, inter alia, result in their deportation.

71. **The Committee urges the State party to repeal the statutory obligation on all service facilities to inform the immigration authorities of any child who is in an irregular migration situation.**

Trafficking

72. The Committee is concerned that the Residence Act makes the provision of residence permits to victims of trafficking, including children, conditional on their cooperation with the law enforcement authorities.

73. **The Committee recommends that the State party revise its Residence Act in order to remove any conditions linked to the provision of residence permits to child victims of trafficking.**

Administration of juvenile justice

74. The Committee notes with satisfaction the legislative amendment prohibiting children in detention from being placed with persons up to the age of 24. However, the Committee regrets that not all Länder apply the principle of "deprivation of liberty as a last resort".

75. **In line with its previous concluding observations (CRC/C/15/Add.226, para. 61), the Committee recommends that deprivation of liberty be used as a measure of last resort in all cases, and for the shortest possible time. In that regard, the Committee recommends that the State party take all necessary steps to expand the possibilities for alternative sentences, such as probation or community service.**

Follow-up to the concluding observations on the initial report of the State party under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/DEU/CO/1)

76. The Committee welcomes the efforts made by the State party to implement the Committee's previous recommendations in relation to the Optional Protocol to the

Convention on the Rights of the Child on the involvement of children in armed conflict. However the Committee is concerned about the following issues:

(a) The minimum age for voluntary recruitment to the armed forces for the purpose of military training is 17 years. Furthermore, children who voluntarily join the armed forces risk becoming liable to prosecution if they decide to leave after their trial period has expired;

(b) Some advertising campaigns for the armed forces specifically target children, and representatives of the armed forces are sometimes present within the school context, speaking with pupils and organizing activities;

(c) There is no explicit legal prohibition of the sale of arms when the final destination is a country where children are known to be, or potentially could be, recruited or used in hostilities.

77. **The Committee reiterates its previous recommendations (CRC/C/OPAC/DEU/CO/1) and recommends that the State party:**

(a) Raise the minimum age for recruitment into the armed forces to 18 years;

(b) Prohibit all forms of advertising campaigns for the German armed forces that target children;

(c) Ensure the greatest transparency regarding the transfer of arms and explicitly prohibit in law the sale of arms when there is risk that the final destination is a country where children are, or potentially could be, recruited or used in hostilities.

78. The Committee notes with satisfaction the provisions on war crimes contained in section 8 of the Criminal Code of the State party, and its statements indicating that it may exercise extraterritorial jurisdiction in the case of the recruitment of children aged under 15 years into armed forces or armed groups. The Committee notes that that jurisdiction may also be established with regard to children aged 15 to 17 years, but regrets that it is subject to the condition of double criminality.

79. **The Committee recommends that the State party further strengthen international measures aimed at preventing the recruitment of children and their use in hostilities. The Committee also recommends that the State party consider extending extraterritorial jurisdiction for crimes concerning the recruitment and involvement of children in hostilities, without submitting it to the condition of double criminality.**

I. Ratification of international human rights instruments

80. **The Committee recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the core human rights instruments to which it is not yet a party, namely, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

J. Cooperation with regional and international bodies

81. **The Committee recommends that the State party cooperate with the Council of Europe towards the implementation of the Convention on the Rights of the Child and**

other human rights instruments, both in the State party and in other Council of Europe member States.

K. Follow-up and dissemination

82. **The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Head of State, Parliament, the relevant ministries, the Supreme Court and federal, Länder and local authorities for appropriate consideration and further action.**

83. **The Committee further recommends that the combined third and fourth periodic reports, the written replies of the State party and the present concluding observations be made widely available in the languages of the country, including, but not exclusively, through the Internet, to the public at large, civil society organizations, the media, youth groups, professional groups and children, in order to generate debate on and awareness of the Convention and the Optional Protocols thereto and their implementation and monitoring.**

L. Next report

84. **The Committee invites the State party to submit its combined fifth and sixth periodic reports by 4 April 2019 and to include in them information on follow-up to the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In accordance with General Assembly resolution 67/167 of 20 December 2012, in the event that a report exceeding the page limitation is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that, if it is not in a position to review and resubmit the report, translation of the report for the purpose of consideration by the treaty body cannot be guaranteed.**

85. **The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I).**